

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Wolverine International, LP to pay the costs, apart from those incurred by BH Store BV before the Cancellation Division of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*
3. *Rejects the claim of BH Store relating to the costs it incurred before the Cancellation Division.*

⁽¹⁾ OJ C 85, 22.3.2014.

Judgment of the General Court of 7 October 2015 — The Smiley Company v OHIM (Shape of a smiley with heart-shaped eyes)

(Case T-656/13) ⁽¹⁾

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a smiley with heart-shaped eyes — Absolute ground for refusal — Lack of distinctive character — Article 7 (1)(b) of Regulation (EC) No 207/2009)

(2015/C 398/48)

Language of the case: English

Parties

Applicant: The Smiley Company SPRL (Brussels, Belgium) (represented by: A. Freitag and C. Albrecht, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 8 October 2013 (Case R 997/2013-4) concerning an application for registration as a Community trade mark of a three-dimensional sign comprising the shape of a smiley with heart-shaped eyes.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders The Smiley Company SPRL to pay the costs.*

⁽¹⁾ OJ C 61, 1.3.2014.